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HDP/SB/21 based on PTO/SB/21 (08-00)

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# TRANSMITTAL FORM

—(to be used for all correspondence after initial filing)

Application Number	10/572,563
Filing Date	March 17, 2006
Inventor(s)	Jiunn-Liang KO et al.
Group Art Unit	Unassigned
Examiner Name	Unassigned
Attorney Docket Number	8964-000031/US

## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application)  <input type="checkbox"/> Letter to the Official Draftsperson and _____ Sheets of Formal Drawing(s)  <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Renewed Petition <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> LETTER SUBMITTING APPEAL BRIEF AND APPEAL BRIEF (w/clean version of pending claims)  <input type="checkbox"/> Appeal Communication to Group (Notice of Appeal, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  <b>Exhibits 1-7 in support of petition</b>
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Remarks

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name	John A. Castellano	Reg. No.	35,094
Signature	<i>John A. Hoffmann</i> Reg. No. 57,752				
Date	May 9, 2008				



MAIL STOP PETITION  
PATENT  
8964-000031/US

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Jiunn-Liang KO et al.

Appl. No.: 10/572,563

Group: Unassigned

Filed: March 17, 2006

Examiner: Unassigned

For: FUNGAL IMMUNOMODULATORY PROTEIN (FIP)  
PREPARED BY MICROORGANISMS AND USES THEREOF

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**RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)**

May 9, 2008

Mail Stop Petition  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir :

Pursuant to 37 C.F.R. § 1.47(a), Applicants petition to proceed with the prosecution of the above-identified application, which names Jiunn-Liang KO, Yu-Lu HUANG, Tzu-Chih CHEN, Hsu-Wei HUNG, Ho-Lung JIANG, Ching-Lung HU, Cheng-Chun KUAN, and Hsuan-Ju THOU, in the name of Jiunn-Liang KO, Yu-Lu HUANG, Ho-Lung JIANG, Tzu-Chih CHEN, and Hsuan-Ju THOU.

The Applicants' renewed petition dated February 22, 2008 was dismissed on April 28, 2008 for the following reason:

(1) Inventor Ho-Lung Jiang's Declaration was incomplete.

Applicants re-submit a petition with Exhibits 1-6 satisfying the requirements of 37 C.F.R. § 1.47(a).

(1) Each of the declarants has first hand knowledge on the matters stated in the declaration.

Mr. Tzu-Chih CHEN has personally communicated with each of the four nonsigning inventors, i.e., Hsu-Wei HUNG, Ho-Lung JIANG, Ching-Lung HU and Cheng-Chun KUAN. Based on his first hand knowledge, Mr. Chen states in his declaration (Exhibit 1) that he personally knows that a letter was mailed to each of the nonsigning inventors along with copies of a reply sheet, the patent specification, a declaration and power of attorney, and an assignment. Only Mr. Jiang responded to Mr. Chen's letter.

Mr. David Ko assisted Mr. Chen and the other inventors, particularly in delivering documents relating to the patent application and communicating with the nonsigning inventors. Based on his first hand knowledge, Mr. Ko states in his declaration (Exhibit 2) that he has made diligent efforts to contact the nonsigning inventors on behalf of Applicants. The communication history since July 26, 2006 is summarized in Exhibit 2.

(2) A physical copy of the specification including claims was delivered to the nonsigning inventors.

A letter entitled "Notice" (Exhibit 3-1) was mailed on December 3, 2007 to each of the four nonsigning inventors along with a reply sheet (Exhibit 3-2), a declaration and power of attorney (Exhibit 3-3), an assignment (Exhibit 3-4) and the patent specification (Exhibit 3-5). As shown in Mr. Ko's declaration (Exhibit 2, paragraph 7) and Notice (Exhibit 3-1), a complete copy of the application papers was sent to the inventors pursuant to MPEP 409.03(d). In addition to Mr. Ko's declaration and letter, a mailing receipt (Exhibit 4-1) and its English translation (Exhibit 4-2) evidence the actual delivery of the copy to the nonsigning inventors.

Mr. Ko received an executed declaration and assignment from Ho-Lung JIANG after the mailing. Thus, Mr. Jiang now becomes a signing inventor. A copy of each document from Mr. Jiang is attached hereto as Exhibit 5-1 (executed declaration) and Exhibit 5-2 (executed assignment).

Not receiving any response from the remaining nonsigning inventors, Mr. Ko emailed and called each of them on behalf of Applicants (see Exhibit 2, paragraph 9). As summarized in the attached Phone Record (Exhibit 6), the three nonsigning inventors expressly showed their intention to refuse to sign the declaration and assignment relating to the present patent application. In addition to Exhibit 6, Mr. Ko states in his declaration that the inventors stated that they are unwilling to sign the documents (see Exhibit 2, paragraphs 9-12).

(3) A Non-English exhibit

An English translation of the Chinese mailing receipt (Exhibit 4) is prepared and submitted herein.

CONCLUSION

First, a complete copy of the application papers including the patent specification was delivered to the last known address of the nonsigning inventors (see Exhibits 3-5 and 4-2).

Second, Applicants' diligent effort to contact them is demonstrated by the two declarations (see Exhibits 1 and 2) which were prepared based on the declarants' first hand knowledge. In response, Hsu-Wei HUNG, Ching-Lung HU and Cheng-Chun KUAN made clear that they would not sign the declaration and assignment relating to the present patent application (see Exhibits 2, 6 and 7).

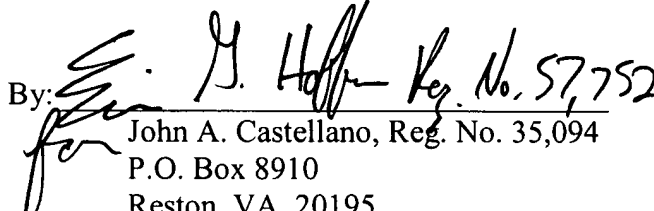
Last, an English translation of the Chinese mailing receipt (Exhibit 4) is submitted.

These circumstances satisfy the requirements under 37 C.F.R. § 1.47(a). Therefore, Applicants respectfully submit that this petition is in allowable condition.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17, especially extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By:  Reg. No. 57,752  
John A. Castellano, Reg. No. 35,094  
P.O. Box 8910  
Reston, VA 20195  
(703)668-8000

JAC/GPB/EGH:ame

Enclosures

- Exhibit 1. Chen's declaration
- Exhibit 2. Ko's declaration
- Exhibit 3-1. Notice
- Exhibit 3-2. Reply sheet
- Exhibit 3-3. Declaration and power of attorney
- Exhibit 3-4. Assignment
- Exhibit 3-5. The patent specification (first page only)
- Exhibit 4. A Chinese mailing receipt & an English translation of the mailing receipt
- Exhibit 5-1. Jiang's declaration and power of attorney
- Exhibit 5-2. Jiang's assignment
- Exhibit 6. Phone Record
- Exhibit 7. Legal Attest Letter from attorney Ting-Yu Zhuang and English translation thereof